

MAR 14 2016

MARIA E. ELKINS, CLERK
Per
DEPUTY CLERK

Mel M. Marin
3900 Dawnshire Dr.
Parma, OH 44134

9 March 2016

Plaintiff
Pro Se

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MEL M. MARIN,)	Civil 1:15-cv-1550
)	
Plaintiff,)	PLAINTIFF'S NOTICE OF
)	AND MOTION TO STRIKE
v.)	MOTION TO DISMISS;
)	AND AFFIRMATION;
THE SECRETARY OF THE)	AND
COMMONWEALTH OF)	PROOF OF SERVICE
PENNSYLVANIA; <i>et al</i> ,)	
)	
Defendants.)	

Plaintiff declares under penalty of perjury as follows:

1. He received a brief for a motion to dismiss with no certificate of word count, exceeding 15 pages, and that violates Local Rules 7.8(b) which says no such brief shall be filed.
2. Therefore, the motion must be stricken which leaves defendants with no brief in support and, under Local Rule 7.5, the motion to dismiss is deemed withdrawn.
3. Additionally, the defendants failed to make a motion to allow an extended length brief in the time the rules allow, and that waives the right to make such a motion. Robinson v. Johnson, 313 F.3d 128, 137 (3d Cir. 2003)(the failure to raise a defense waives it if not asserted at the earliest possible moment).
4. And this court does not have the authority to relieve the defendants of their waiver of the right to make that motion. Khan v. Gutschell, 55 S.W.3d 440, 441 n. 1 (Mo. App. 2001)(a court as an impartial arbiter cannot be an advocate for a party that declines to argue its own issues).
5. Therefore, plaintiff is entitled to an order striking the motion to dismiss, and entry of default for failing to answer or to move to dismiss in the time federal rules allow.

DATED: March 9, 2016

Mel M. Marin
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